

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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FILED

AUG 16 2004

**IN RE THE MATTER OF A COMPLAINT)
AGAINST LIBERTYTREE CAMPGROUND)
OWNERS AND MEMBERS ASSOCIATION,)
INC. d/b/a HERITAGE HILLS)**

INDIANA UTILITY
REGULATORY COMMISSION
CAUSE NO. 41662

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") has caused the following entry to be made:

Pursuant to a Docket Entry issued in this Cause on July 22, 2004, an Attorneys' Conference was convened in this Cause on August 9, 2004. At that Attorneys' Conference, Respondent Libertytree Campground Owners and Members Association, Inc. ("Libertytree") appeared by counsel, William B. Powers. The OUCC appeared, by counsel, Leja Courter, with OUCC staff member Scott Bell. Also present were Carolyn Chappell from IDEM, and Jerry Webb and Moshrek Sobhy of the IURC.

The parties first updated the Presiding Officers regarding Libertytree's compliance with IDEM-issued violations. Ms. Chappell indicated that Libertytree was in total compliance with IDEM until May, 2004, when IDEM first noted problems with low pressure at Libertytree's campground facility on weekends. Libertytree has hired an engineer to evaluate the possibility of installing 8-inch mains in the campground to replace the existing 1-inch mains. IDEM is uncertain at this time if a new water main construction project will require new approval of the Water System Management Plan ("WSMP") set forth in 327 IAC 8-3.6-1, *et seq.*, but believes that Libertytree's newly constructed water supply system did have the appropriate WSMP approvals when work on its wellhead protection program began. IDEM continues to monitor low pressure data from flow pressure gauges installed in the Libertytree pumphouse. IDEM will monitor the situation further in an effort to determine whether or not to pursue low pressure violations.

The parties next discussed the issue of whether or not Libertytree had filed with the Commission a schedule of rates and charges for existing water rates. Counsel for Libertytree advised the Presiding Officers that rates were in place and were being assessed of all customers, but was uncertain whether or not a tariff had been filed with the Commission. The parties also raised the issue of Commission approval of any schedule of initial rates and charges Libertytree might file. Counsel for the OUCC provided the Presiding Officers with a copy of the November 30, 1994, Order in Cause No. 39957. Counsel for Libertytree referenced several statutes and cases on the issue of initial rate approval. The Presiding Officers also expressed concern as it appears that Libertytree's membership rules and regulations provide for an annual 3% water rate increase. Counsel for Libertytree agreed to investigate this issue.

During the August 9, 2004, Attorneys' Conference, counsel for Libertytree committed to providing information addressing specific questions set forth by the Presiding Officers in a July 22, 2004, Docket Entry, and in fact did file a written response on August 10, 2004. Libertytree's August 10, 2004, filing stated that a water rate tariff reflecting an \$8.53 flat monthly rate for all of its users would be filed with the Commission. Counsel for Libertytree indicated that he was attempting to contact IDEM to determine compliance issues, and reiterated that Brookville Regional Sewer District is presently providing sanitary sewage disposal to the campground and that Libertytree is no longer providing sanitary sewage service to any person. With his filing, Counsel for Libertytree provided copies of the cases he had referenced during the August 9, 2004, Attorneys' Conference.


Given these recent events, the Presiding Officers hereby find that that another Attorneys' Conference should be convened in order to provide the Parties with an opportunity to advise the Commission whether any issues remain unresolved, and to afford Libertytree an opportunity to further explain the issue of an automatic, annual 3% water rate increase for its members. In the event that there are unresolved issues at the conclusion of this Attorneys' Conference, the Parties should be prepared to discuss a procedural schedule, including dates for an Evidentiary Hearing, to allow for the filing and submission into evidence any supplemental testimony that is necessary to ensure that the Commission has a full and complete record upon which to make a decision in this matter.

Accordingly, an Attorneys' Conference is hereby scheduled for August 25, 2004, at 10:30 a.m. in the Commission Law Library.

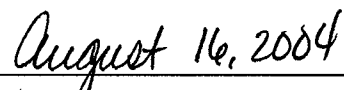
IT IS SO ORDERED.




David E. Ziegner, Commissioner



Andrea L. Brandes, Administrative Law Judge



Date



Nancy E. Manley, Secretary to the Commission